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SHANG, ANNAN Q

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID JOHNSTON LYNCH

Appeal 2009-007862
Application 09/475,448¹
Technology Center 2400

Before JOSEPH F. RUGGIERO, MARC S. HOFF,
and THOMAS S. HAHN, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL²

¹ The real party in interest is Thomson Licensing S.A.

² The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from a Final Rejection of claims 10-29. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Appellant's invention relates to a video processing system having a ratings control system that may be temporarily revised to permit specific programs to be viewed. The rating control system enables a supervisor to block or permit viewing of programs which are broadcast with ratings or spending limits according to a password-protected profile set by a supervisor who has entered a password. In the alternative, the rating control system enables the supervisor to change the ratings control range or temporarily override blocking. At the end of the temporary period or completion of the specific programs permitted by the supervisor, the system automatically restores the normal ratings and/or spending limit for the selected profile(s). The system comprises a means for the supervisor who has entered the password accepted by the control system to enter (i) one or more specific broadcast programs to be unblocked, (ii) one or more channels to be unblocked for one or more specific time periods, (iii) a revised ratings profile for a specific time period, or (iv) a revised spending limit. (Abstract; Spec. 4:14-5:13)

Claim 10 is exemplary:

10. A system comprising:
 - a video signal processor for producing an output signal suitable for coupling to a display device to produce a plurality of images for display to at least one viewer;
 - a supervisor control system operable by a supervisor to create at least one viewer profile identifying images to be blocked from display to said at least one viewer;

said supervisor control system operable by said supervisor to select a specific program having a rating above a set rating for blocking programs applicable to said viewer profile such that said select program is unblocked for the duration of the program while the other of said plurality of images for display are blocked according to said viewer profile, whereby upon completion of said selected specific program, said supervisor control system identifies images to be blocked according to said at least one viewer profile.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

West	US 5,550,575	Aug. 27, 1996
Collings	US 5,828,402	Oct. 27, 1998
Abecassis	US 6,091,886	Jul. 18, 2000
Sullivan	US 2004/0040034 A1	Feb. 26, 2004

Claims 10, 11, 13, 21, 23-25, 27, and 29 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Abecassis.

Claims 12, 14-17, 19, 22, 24-26, and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Abecassis in view of Collings.³

Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Abecassis in view of West.

Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Abecassis in view of Collings and Sullivan.

Rather than repeat the arguments of Appellant or the Examiner, we make reference to the Appeal Brief (filed February 11, 2008) and the Examiner's Answer (mailed May 16, 2008), for their respective details.

³ The Examiner rejects claim 22 under 35 U.S.C § 103(a) as being unpatentable over Abecassis in view of Collings; yet neither the Appeal Brief nor the Answer lists the rejection of claim 22 in the "Grounds of Rejection to be Reviewed on Appeal" (Ans. 2, Ans. 7 and App. Br. 6).

ISSUE

Appellant contends that although Abecassis may allow *blocking of segments* of programs not suitable for children, Abecassis is not concerned with “select[ing] a *specific program* having a rating above a set rating for blocking programs” and *unblocking the selected program* “for the duration of the program while other of said plurality of images for display are blocked according to said viewer profile” as recited in independent claims 10 and 23 (App. Br. 12-13 and 15). Appellant asserts that none of the references are concerned with unblocking a single selected program having a rating above the set rating scheme while still blocking all other images according to the set blocking scheme (App. Br. 20, 25, and 28).

Appellant’s contentions present us with the following issue:

Does Abecassis teach a “supervisor control system operable by said supervisor to select a specific program having a rating above a set rating for blocking programs applicable to said viewer profile such that said select program is unblocked for the duration of the program while the other of said plurality of images for display are blocked according to said viewer profile, whereby upon completion of said selected specific program, said supervisor control system identifies images to be blocked according to said at least one viewer profile”?

FINDING OF FACT

The following Finding of Fact (FF) is shown by a preponderance of the evidence.

Abecassis

1. Abecassis discloses a method and fully integrated viewing/gaming/computing video system (Random Access Video Technology system (RAViT)) for a user to restrict time and videos or versions of videos that may be viewed by a viewer. The video or version of the video may be restricted by content category, a level within the content category or a level of explicitness in each of a plurality of content categories. A random access and buffering means 514 is used to retrieve segments of a video, to buffer at least a portion of a segment of a video and seamlessly skip a retrieval of at least one segment of the video to enable playing of a seamless version of the video having less length than the length of the original version of the video. (Fig. 5; Abstract; col. 11, ll. 11-24; col. 12, ll. 13-19 and 47-51).

PRINCIPLES OF LAW

Anticipation

Anticipation pursuant to 35 U.S.C § 102 is established when a single prior art reference discloses expressly or under the principles of inherency each and every limitation of the claimed invention. *Atlas Powder Co. v. IRECO Inc.*, 190 F.3d 1342, 1347 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994).

Obviousness

On the issue of obviousness, the Supreme Court has stated that “the obviousness analysis cannot be confined by a formalistic conception of the

words teaching, suggestion, and motivation.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 419 (2007). Further, the Court stated “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* at 416.

ANALYSIS

Claims 10, 11, 13, 21, 23-25, 27 and 29

Independent claim 10 recites “supervisor control system operable by said supervisor to select a specific program having a rating above a set rating for blocking programs applicable to said viewer profile such that said select program is unblocked for the duration of the program while the other of said plurality of images for display are blocked according to said viewer profile.” Independent claim 23 recites a claim limitation similar in scope.

We consider Appellant’s arguments to be persuasive to show Examiner error. We do not agree with the Examiner’s finding that Abecassis discloses a supervisor control system that identifies programs to be blocked according to the at least one viewer profile (Ans. 3-4). Abecassis discloses a method and system for a user to restrict time and videos or versions of videos that may be viewed by a viewer (FF 1). The video or version of the video maybe restricted by content category, a level within the content category or a level of explicitness in each of a plurality of content categories (FF 1). A random access and buffering means are used to retrieve *segments* of a video, to buffer at least a portion of a *segment* of a video and seamlessly skip a retrieval of at least one segment of the video to enable playing of a seamless version of the video having less length than the length of the original version of the video (FF 1). Abecassis is silent as to an

override feature that enables a supervisor to edit a viewer profile such that a selected *program* that would normally be blocked due to its rating may be unblocked and, at the end of the *program*, the original viewer profile resumes blocking programs as designated.

Therefore, we find that Abecassis does not disclose a “supervisor control system operable by said supervisor to select a specific program having a rating above a set rating for blocking programs applicable to said viewer profile such that said select program is unblocked for the duration of the program while the other of said plurality of images for display are blocked according to said viewer profile, whereby upon completion of said selected specific program, said supervisor control system identifies images to be blocked according to said at least one viewer profile.” As a result, we will not sustain the Examiner’s § 102 rejection of independent claims 10 and 23 and that of dependent claims 11, 13, 21, 24-25, 27, and 29.

Claims 12, 14-20, 22, 24-26 and 28

As noted *supra*, we reversed the rejection of claims 10 and 23 from which claims 12, 14-20, 22, 24-26, and 28 depend. We have reviewed Collings, West, and Sullivan (the additional references applied by the Examiner to reject these claims), and find that none of the cited references teaches the limitations deemed to be absent from Abecassis.

We therefore reverse the Examiner’s rejections of claims 12, 14-20, 22, 24-26, and 28 under 35 U.S.C. § 103, for the same reasons expressed with respect to the rejection of parent claims 10 and 23, *supra*.

CONCLUSION

Abecassis does not teach a “supervisor control system operable by said supervisor to select a specific program having a rating above a set rating for blocking programs applicable to said viewer profile such that said select program is unblocked for the duration of the program while the other of said plurality of images for display are blocked according to said viewer profile, whereby upon completion of said selected specific program, said supervisor control system identifies images to be blocked according to said at least one viewer profile.”

ORDER

The Examiner’s rejection of claims 10-29 is reversed.

Appeal 2009-007862
Application 09/475,448

REVERSED

ELD

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